DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–99–5578]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FHWA announces its decision to exempt 32 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: September 23, 1999.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Motor Carrier Research and Standards, (202) 366-2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4: 15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's web page at: http://www.access.gpo.gov/nara.

Background

Thirty-two individuals petitioned the FHWA for a waiver of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Grady Lee Black, Jr., Marvin E. Brock, Roosevelt Bryant, Jr., John Alex Chizmar, Billy M. Coker, Cliff Dovel, George T. Ellis, Jr., Weldon R. Evans, Richard L. Gagnebin, James P. Guth, James J. Hewitt, Paul M. Hoerner, Carroll Joseph Ledet, Charles L. Lovern, Craig M. Mahaffey, Michael S. Maki, Gerald Wayne McGuire, Eldon Miles, Craig W. Miller, Walter F. Moniowczak, Howard R. Payne, Kenneth Adam Reddick, Leonard Rice, Jr., Willard L. Riggle, John A. Sortman, James Archie Strickland, James Terry Sullivan, Edward A. Vanderhei, Buford C. Varnadore, Kevin P. Weinhold, Thomas A. Wise, and Rayford R. Harper. Under 49 U.S.C. 31315 and 31136(e), the FHWA may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly the FHWA evaluated the petitions on their merits and made a preliminary determination that the waivers should be granted. On May 18, 1999, the agency

[16] 17 CFR 200.30–3(a)(12).

published notice of its preliminary determination and requested comments from the public (64 FR 27027). The comment period closed on June 17, 1999. Two comments were received, and their contents were carefully considered by the FHWA in reaching the final decision to grant the petitions.

Vision and Driving Experience of the Applicants

The vision requirement in 49 CFR 39 1.4 1 (b) (10) provides: A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70" in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

Since 1992, the FHWA has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70" to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket). The panel's conclusion supports the FHWA's view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FHWA also recognizes that some drivers do not meet the vision standard but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 32 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal and cornea1 scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but nine applicants were either born with their vision impairments or have had them since childhood. The nine individuals who sustained their vision conditions as adults have had them for periods ranging from 6 to 43 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL, these 32 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 42 years. In the past 3 years, the 32 drivers had a total of four moving violations among them. Three drivers were involved in minor accidents in their CMVs, but there were no injuries and none of the CMV drivers received a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in 64 FR 27027, May 18, 1999. Since the docket comments did not focus on the qualifications of a specific applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group, however, is supported by the information published in 64 FR 27027.

Basis for Exemption Determination

Under revised 49 U.S.C. 31315 and 31136(e), the FHWA may grant an exemption from the vision standard in 49 CFR 39 1.4 1 (b) (10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FHWA considered not only the medical reports about the applicants' vision but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). That experienced monocular drivers with good driving records in the waiver study program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions to those required by the waiver study program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 197 1). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 32 applicants, we note that cumulatively the applicants have had only three minor accidents and four traffic violations in the last 3 years. None of the violations represented a serious traffic violation as defined in 49 CFR 383.5, and neither of the accidents involved bodily injury or resulted in a

citation. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' driving histories with their vision deficiencies are predictors of future performance, the FHWA concludes their ability to drive safely can be projected into the future.

We believe applicants' intrastate driving experience provides an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrians and vehicle traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated a CMV safely under those conditions for at least 4 years, most for much longer. Their experience and driving records lead us to believe the applicants are capable of operating in interstate commerce as safely as they have in intrastate commerce. Consequently, the FHWA finds that exempting applicants from the vision standard in 49 CFR 39 1.4 1 (b) (10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FHWA will impose requirements on the 32 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 39 1.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.4 1; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FHWA received two comments in this proceeding. Each comment was considered and is discussed below.

Ms. Felicia Harrison of Pahokee, Florida, supported the FHWA's determination to grant the exemptions. She believes, like the FHWA. that past driving records are good indicators of future performance and that the 32 applicants for vision exemptions have demonstrated their ability to operate CMVs safely.

In the other comment, Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FHWA's policy to grant exemptions from the FMCSRs including the driver qualification standards. Specifically, the AHAS questions the agency's reliance on conclusions drawn from the vision waiver program, suggests that the criteria used by the FHWA for considering exemptions is flawed, raises procedural objections to this proceeding and finally, claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)).

On the first issue regarding what inferences can be drawn from the results of the waiver study program, the AHAS suggests that the FHWA cannot base the present proceedings on the results generated by the waiver study program because a valid research model was not used. In response to this concern, we note that the validity of research designs is a quality with many dimensions which cannot be accepted or dismissed in a blanket, simplistic statement. The approach used by the FHWA for the assessment of risk is a valid design that has been used in epidemiology for studies of occupational health. These observational studies compare a treated or exposed group of finite size to a control group that is large and represents outcomes for the nation as a whole (e.g., national mortality rates or truck accident rates). This design has been used to investigate risk relative to the hazards of asbestos and benzene with regulatory decisions based on the outcomes.

The strength of the design is that it provides a high level of external validity. Being able to compare outcomes to a national norm places the focus in proper perspective for regulatory matters. This, of course, is the strength relative to the waiver program where the General Estimates System (GES) accident rates represent a national safety norm. While the design has been successfully used in critical risk areas, its application has not been without challenges. Most of the criticism has focused on the data used in the models. It has been correctly argued that exposure to hazards has not always been clearly measured because recordkeeping is not accurate or complete. Criticism has also focused on the poor measurement of health outcomes. Vagueness in the assessment of outcomes was due to poor recordkeeping or exposed individuals not being examined. Threats to the validity of measurement do not appear to be as large an issue in the waiver program's risk assessment. Exposure, for example, in the assessment is manifested by participation in the waiver program (as exposure to a treatment) and through vehicle miles traveled (as exposure to risk). The measurement of participation in the program had no vagueness by virtue of the required recordkeeping. Exposure to risk by vehicle miles traveled was measured by self-report and could, of course, contain errors. However, since reports were made on a monthly basis, it was not expected that the reporting for these short periods would contain significant systematic error over the life of the program. Risk outcomes in this assessment were determined through accident occurrence. Accident occurrence was verified in multiple ways through self-report (a program requirement), the Commercial Driver License Information System, State driving records, and police accident reports. As a result it is believed that the research approach used in the waiver program did not suffer serious flaws relative to the validity of measurement.

Criticism of the approach taken by the waiver program relative to internal validity could have some merit. Even the original design proposed for the waiver study received concern for its internal validity. That design proposed to use a sample of commercial motor vehicle (CMV) operators without vision deficiencies as a comparison group. While the design was appealing, it had potential for flaws relative to internal validity. Due to the nature of the vision deficiencies examined, the drivers could not be randomly assigned to the waiver and comparison groups as is done in clinical trials. As the desirable paradigm

for science, clinical trials go to great length to guarantee internal validity. But, as is being increasingly pointed out in medical research where randomized trials are seen as the basis of good science, even these studies can have flaws which undermine their external validity (U.S. General Accounting Office, "Cross Design Synthesis; A New Strategy for Medical Effectiveness Research," March 1992, GAO/PEMD–92-18).

In the GAO report cited above, it was suggested that the results obtained through randomized clinical trials be adjusted to apply to a patient population which was not represented in the trial, and, thereby, enhanced external validity. Moreover, it was also suggested that the results from other observational (i.e. non-random) studies be used to support the evidence provided by clinical trials. Of course, these studies would have to be assessed to determine the degree of bias present relative to internal validity. If it existed, adjustments would be required. As is more often being recognized, all aspects of scientific endeavor contain flaws; design, measurement, and even the research questions asked (Cook, J.D. "Postpositivist Critical Multiplism" in L. Shortland and H.M. Mark (eds.) ***Social Science and Social Policy.*** Newbury Park, CA: Sage 1985). The necessary approach to obtaining valid results is to thoroughly examine a study for bias and make adjustments where possible. If the original waiver study comparative design had been implemented, it probably would have required adjustments related to both internal and external validity.

The waiver program and its research design were reviewed on several occasions. Most of the critical discussion concerned analytic methodology given the nature of the GES comparison group. The risk monitoring aspect of the design was largely endorsed. However, one researcher correctly criticized the comparison with the national GES data because it would not be possible to assess the potential for comparison bias as a threat to internal validity. This criticism was correct because such potential confounding factors as age and driving patterns are not available in the GES data to determine if a lack of balance exists between the waiver group and the comparison data. If the factors were not balanced, adjustments could not be made. The bias, if it existed, would therefore be hidden. This has been a concern to the FHWA. To address this, a sensitivity analysis was performed to assess the impact of possible hidden bias (Rosenbaum, P.R. ***Observational Studies, New*** York, Springer-Verlag 1995). The analysis examined outcomes under various levels of hidden bias and the results showed that the comparison with GES accident rates is largely insensitive to hidden bias. The results of this sensitivity analysis, filed in this docket, provide evidence to support the internal validity of the comparison to GES data.

Based on the various assessments, it would appear that the results of the waiver program risk analysis are basically valid. The measurement of exposure and risk outcomes was conducted with virtually no error. The external validity is ensured because a national norm is the focus of comparison and, based on the sensitivity analysis, the degree of internal validity is strengthened. To obtain valid results that point to a clear causal connection between an action and an outcome basically rests on ruling out other influences on the outcome. While these appear to be largely accomplished based on an examination of the various types of validity, there remains an additional threat to the validity of the results. Relative to this, it has been argued that the drivers in the various waiver programs have lower accident rates because they are aware of being monitored, and monitoring is a strong motivation to exercise care. Given the possible threat, the FHWA conducted a follow up assessment after the waived drivers were given grandfather rights in March 1996. Conducted in June 1998, an assessment of the drivers' accident experience was made for the period to December 1996. The results, on file in this docket, showed that the drivers who had been in the program continued to have an accident rate that was lower than the national norm.

Based on the arguments given above, it is reasonable to conclude that the results generated by the waiver program have a high degree of validity. It then remains to determine how these results can be used, ***i.e.,*** what inferences can be drawn from results and what are the boundaries on these inferences? The AHAS states categorically that "the agency cannot extrapolate from the experience of the drivers in the vision waiver program to other vision impaired drivers who did not participate in the program." To some degree this statement is correct. Based on the design, data collection and analysis associated with the waiver program, the FHWA does not wish to generalize the results of the study to other drivers with vision deficiencies. That is, drivers are not the focus of inference. They are associated with the inference but are not necessarily the subject of inference. Nor are the vision standards the focus of inference from the results. As the AHAS pointed out, "the FHWA recognizes that there were weaknesses in the waiver study design and believes that the waiver study has not produced, by itself, sufficient evidence upon which to develop new vision and diabetes standards." This statement by the FHWA merely recognizes that the study design did not ask questions concerning whether there are vision characteristics other than those in standards that could permit safe operating of a CMV. The FHWA conducted a feasibility assessment to determine if such a study could be designed and implemented. It was concluded that resources were not available to do this.

The target of inference in the waiver study is suggested in another quotation offered by the AHAS. The AHAS points out that the FHWA has stated "that monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely." This statement captures the focus of inference while being somewhat restrictive relative to the type of vision deficiency involved. The target of the test in the research design was the process of granting waivers. That is, it can be inferred that drivers with vision deficiencies who are approved by the screening process in the waiver program will be able to operate CMVs in a manner that is as safe or safer than the prevailing national safety norm. The inference is not being made to screening processes in general. It is only being inferred for the single process in the waiver program and that this process is viable for the purpose intended. That the AHAS has stated such a conclusion is not tenable because a valid research design was not used is, in itself, a proposition that does not enjoy support. The discussion of the validity of the approach clarifies the value of results. If the inferences drawn from these results focus on the process tested, the conclusions are valid. It follows that the application of the waiver process to future screening should also produce valid results.

In its second point, that there is an important flaw in the criteria used by the agency, the AHAS contends the agency "ignores" regulatory provisions that would require reliance upon a ten-year driving history. This is based on CDL disqualifications that apply upon the repeat convictions for certain violations committed in a ten-year

period. Because the exemption criteria includes consideration of an applicant's driving record for a three-year period, the AHAS concludes: "Thus, while drivers who are not granted exemptions are subject to the lo-year requirement for second and third disqualifying offenses, drivers who are granted exemptions from the federal vision standard are also exempt from reporting convictions for disqualifying offenses that took place more than 3 years prior to the application for exemption." There is absolutely no basis for this conclusion. The previous discussion explains why a 3-year driving history was chosen as a criterion for determining whether the applicant has successfully adjusted to the vision deficiency. The exemption granted to these petitioners applies only to the qualification standard in 49 CFR 39 1.4 1 (b) (10) (vision). The drivers receiving the exemptions are subject to all other regulations, including all of the CDL and other qualification standards. In fact, as noted above, all these applicants possess a valid CDL.

In its third point, the AHAS objects to the procedure employed in processing these petitions for exemptions, contending that there is no statutory basis for making a "preliminary" determination, which tends to pre-judge the outcome. The AHAS makes an analogy to an interim final rule where an agency "has already made its decision * * * (and) predetermined its view of the merits prior to soliciting and evaluating public comments on the petition." This analogy is misplaced. The agency's "preliminary determination" is much more akin to a notice of proposed rulemaking, where the agency analyzes the basis upon which a new or amended regulation has been considered, and then proposes that the new rule take effect. The agency then considers the information obtained in response to the NPRM and issues a final rule. This is no different. The agency analyzes the information provided in the completed application. Some applications are denied outright. It is only when the agency proposes to grant a petition that it publishes that proposal, together with its analysis of the information submitted in support of the petition, for public comment. After consideration of public comment, a final decision is published. The denials will be summarized periodically, consistent with the statute, and published in the Federal Register. Quoting from 49 U.S.C. 31315(b)(4)(A), the AHAS ignores that part of the quotation that is entirely consistent with the FHWA's approach: ''* * * (the (FHWA) shall publish in the Federal Register a ***notice*** explaining the request that has been filed and shall give the public an opportunity to ***inspect the safety analysis and any other relevant information known to the (FHWA)*** and to comment on the request." Obviously, the public is entitled to know how the agency treated the information it received, including whether it intended to grant the application. The AHAS could not seriously argue that the statute requires the agency to conduct a plebiscite on every application it receives.

The AHAS' final point, as it readily admits, is not even relevant to this action, and merely reargues its position that the agency misinterpreted the current law on exemptions by considering them slightly more lenient than the previous law. This was unquestionably the intention of Congress in drafting section 4007 of the Transportation Equity Act for the 2 1st Century (TEA-2 1), Public Law 105– 178, 112 Stat. 107, (See 63 FR 67601, quoting from H.R. Conf. Rep. No. 105-550, at 489–490), and the FHWA sees no benefit in addressing this point again in this document.

Notwithstanding the FHWA's ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, however, the FHWA must comply with ***Rauenhorst*** versus ***United States Department of Transportation, Federal High way Administration, 95*** F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 32 veteran drivers in this case have demonstrated to our satisfaction that they can operate a CMV with their current vision as safely in interstate commerce as they have in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Conclusion

After considering the comments to the docket and based upon its evaluation of the 32 waiver applications in accordance with ***Rauenhorst*** versus ***United States Department of Transportation, Federal Highway Administration,*** *supra,* the FHWA exempts Grady Lee Black, Jr., Marvin E. Brock, Roosevelt Bryant, Jr., John Alex Chizmar, Billy M. Coker, Cliff Dovel, George T. Ellis, Jr., Weldon R. Evans, Richard L. Gagnebin, James P. Guth, James J. Hewitt, Paul M. Hoerner, Carroll Joseph Ledet, Charles L. Lovern, Craig M. Mahaffey, Michael S. Maki, Gerald Wayne McGuire, Eldon Miles, Craig W. Miller, Walter F. Moniowczak, Howard R. Payne, Kenneth Adam Reddick, Leonard Rice, Jr., Willard L. Riggle, John A. Sortman, James Archie Strickland, James Terry Sullivan, Edward A. Vanderhei, Buford C. Varnadore, Kevin P. Weinhold, Thomas A. Wise, and Rayford R. Harper from the vision requirement in 49 CFR 39 1.4 1 (b) (10) , subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 39 1.4 1; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 3 1136(e), each exemption will be valid for 2 years unless revoked earlier by the FHWA. The exemption will be revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FHWA for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 31315 and 31136; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: September 16, 1999.

Kenneth R Wykle,

Federal Highway Administrator.

[FR Doc. 99-24718 Filed 9-22-99; 8:45 am]

BILLING CODE 4910-22-P